BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION

JANELLE EDWARDS	)	
Claimant	)	
VS.	)	
	)	Docket No. 183,305
KANSAS GAS & ELECTRIC CO.	)	
Respondent	)	
AND	)	
	)	
SELF-INSURED	)	
Insurance Carrier	)	

ORDER

ON the 19th day of May, 1994, the claimant's application for review by the Workers Compensation Appeals Board of an Order entered by Administrative Law Judge John D. Clark dated April 4, 1994, came on for oral argument by telephone conference.

APPEARANCES

The claimant appeared by and through her attorney, Jim L. Lawing, of Wichita, Kansas. The respondent, a self-insured, appeared by and through its attorney, Tom Green, of Topeka, Kansas. There were no other appearances.

RECORD

The record considered for purposes of this appeal consists of the documents filed of record with the Division of Workers Compensation in this docketed matter including the transcript of preliminary hearing held on March 31, 1994, before Administrative Law Judge John D. Clark.

ISSUES

(1) Whether the claimant sustained personal injury by accident arising out of and in the course of her employment with the respondent.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based upon the evidence presented and for purpose of preliminary hearing, the Appeals Board finds as follows:

Claimant has failed to establish by a preponderance of the credible evidence that claimant suffered an accidental injury on October 7, 1992, arising out of and in the course of her employment with the respondent.

Claimant, a blind switchboard operator for Kansas Gas and Electric Company (KG&E) in Wichita, Kansas, departed the KG&E building by way of a skywalk to an adjacent building called Market Center to eat lunch. While on her lunch break, walking through the halls at Market Center, claimant fell over several boxes which had been stacked in the hallway. It is stipulated that the boxes were not located on property under the control of KG&E but were instead located in a common area near several restaurants. Claimant contends that these boxes, which she speculates belonged to KG&E, somehow caused this non-work related incident to be work related.

Case law indicates to the contrary. In Walker v. Tobin Construction Co., 193 Kan. 701, 396 P.2d 301 (1964), the claimant, a construction worker, departed his job site during his lunch hour in order to eat lunch at a local restaurant. While returning to the job site on a public street, the claimant was involved in an automobile accident and was injured. The Court held that where the workman is on no mission or duty for the employer, and the accident occurs to the workman while he is off the premises of the employer during the workman's lunch time, the accident does not arise out of and in the course of the workman's employment. In this instance, claimant was clearly on her lunch break with no mission or duty planned for the benefit of the employer.

In Madison v. Key Work Clothes, 182 Kan. 186, 318 P.2d 991 (1957), the claimant, while walking on an ice-covered sidewalk next to the respondent's factory, was found to have not suffered an injury arising out of and in the course of her employment when she slipped and fell on the ice. The Court, in denying the claimant benefits, found that it was not the purpose of the Kansas Workmen's Compensation Act that the employer should, in all respects, be an insurer of the employee. The employer is an insurer only for those accidental injuries caused or produced in some way by the employment. A showing of some causal connection between the employment and the accident is required. Likewise, in Murray v. Ludowici-Celadon Co., 181 Kan. 556, 313 P.2d 728 (1957), the Court held that when the claimant, after ceasing work, on his way home, fell on an ice and snow covered alley adjacent to the respondent-maintained parking lot, the injury did not arise out of and in the course of his as the respondent had no responsibility or duty to maintain the alley free from snow and ice.

Absent some indication that the claimant was on a mission or duty for the employer, the Appeals Board finds the injury suffered by claimant on October 7, 1992, while on her lunch break did not arise out of and in the course of her employment with the respondent, KG&E.

AWARD

WHEREFORE, it is the finding, decision and order of the Appeals Board, for preliminary hearing purposes, that claimant has not met her burden of establishing a compensable accidental injury on October 7, 1992, and that the Order of Administrative Law Judge John D. Clark dated April 4, 1994, is affirmed in all respects and remains in full force and effect.

IT IS SO ORDERED.

Dated this _____ day of June, 1994.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

cc: Jim Lawing, 200 E First, Wichita, Kansas 676202-2181
Tom Green, 818 Kansas, Topeka, Kansas 66612
John D. Clark, Administrative Law Judge
George Gomez, Director